

**ZONING BOARD OF APPEALS**  
**MEETING MINUTES**  
**October 13, 2015**  
**4:00 P.M.**

**CALL TO ORDER:** Mr. John Stetler, Chairperson called meeting to order at 4:00 P.M.

**ATTENDANCE:**

**Members Present:** Deland Davis                      Becky Squires  
                         Samuel Gray                      John Stetler  
                         Carlyle Sims

**Members Excused:** Rick Barnes and James Moreno

**Staff Present:** Marcel Stoetzel, City Attorney  
                         Glenn Perian, Senior Planner, Planning Dept.  
                         Leona Parrish, Admin. Assistant, Planning Dept.

**ADDITIONS OR DELETIONS TO THE AGENDA:** None

**CORRESPONDANCE:** Received document in opposition from Ms. Cheryl Perkins regarding Appeal #Z-07-15 (43 N. Burdge St.)

**OPENING COMMENTS:** *Mr. John Stetler, Chairperson stated the meeting procedure where everyone present may speak either for or against an appeal and that he will ask for a staff report to be read and then open the public hearing. At the public hearing persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. Mr. Stetler stated if denied the petitioner may appeal to the Circuit Court.*

**OLD BUSINESS:** None

**NEW BUSINESS:**

**A. Z-05-15 (41 N. 20<sup>th</sup> Street):**

Petition from Mr. Perry Beard, Darrell Burke Construction Co., 750 Capital Ave., N.E., on behalf of owner Mr. Arthur Bonfiglio requesting a dimensional variance to allow an attached garage to be built 5 ft. from side property line where the ordinance requires it to be 8 ft.; property is zoned "R-1B Single Family Residential". The permit application is requested pursuant to Planning and Zoning Code, Chapter 1278.01.

Mr. Glenn Perian stated appeal #Z-05-15 is an appeal from Mr. Perry Beard on behalf of property owner. Stated this request is to waive the setback requirement for a side property line at 41 N. 20<sup>th</sup> Street. Said the applicant would like to build an 18 ft. x 21 ft. attached garage 6 ft. from a side property line where an 8 ft. setback is required. Mr. Perian stated they did not find anything unique about the property in way of slopes, shape, area or width and think the garage can be built two feet narrower or the applicant can consider building a detached garage that would conform with the

ordinance setback requirements and other code requirements. Said for those reasons and stated and listed in the staff report, they are recommending denial.

Mr. John Stetler stated the applicant is a close personal acquaintance of his, but does not have any financial interest in this appeal; therefore he will be voting on this variance request.

Mr. Perry Beard, Darrell Burke Const. Co., and property owner's son Mr. Dan Bonfiglio was present; stated the owner Mr. Art Bonfiglio was soon to be 91 years old and was not well, this is why they are asking to attach the garage for safety issues regarding slipping and falling outside, etc.; feel the lot size is narrow and that the neighbor is OK with their request and still have a green space and would allow a straight shot to drive into the garage. Said they have been a resident in the city for a long time and that the N.W. corner would encroach because of the lot dimensions; if the size was built smaller it would only allow about one-foot on each side of the car door.

Mr. Dan Bonfiglio, owner's son stated his father has lived at this address since 1960, is a veteran and lives alone and maintains his property alone; said they could build a detached garage, but would defeat the purpose and that the last few winters have been difficult. Said he is asking for any consideration the board might have.

Mr. Deland Davis asked if it were a detached garage, could they do a breezeway as a cover. Mr. Beard stated with the lot dimensions it would be tight and that the rear of the home has only picture window and it would eliminate the only back yard view.

*Mr. John Stetler asked if there was any further discussion, seeing none he would entertain a motion.*

**MOTION WAS MADE BY MR. CARLYLE SIMS TO APPROVE APPEAL #Z-05-15 FOR AN DIMENSIONAL VARIANCE TO ALLOW AN ATTACHED GARAGE TO BE BUILT 5 FT. FROM SIDE PROPERTY LINE FOR PROPERTY ZONED "R1-B SINGLE FAMILY RESIDENTIAL DISTRICT" FOR PROPERTY LOCATED AT 41 N. 20<sup>TH</sup> STREET; SECONDED BY MS. BECKY SQUIRES.**

**Discussion:**

Mr. Deland Davis stated he understands and appreciate what the applicant said and that there are others that might have the same issues and is not unique to the property.

Mr. John Stetler stated they need to have five persons to vote in favor for this to be approved and he does not see it to be unique other than the owner's age and would have to vote against this request.

**MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; TWO IN FAVOR (SIMS AND SQUIRES); THREE OPPOSED (DAVIS, GRAY, AND STETLER), MOTION FAILED BASED ON THE FINDINGS LISTED IN STAFF REPORT.**

**B. Z-06-15 (114 E. Minges Road):**

Petition from St. Mark Lutheran Church, Mr. Richard Schuemann, 114 E. Minges Rd., requesting a variance to allow an Electronic Changeable Copy Sign in a "R1-B Single Family Residential" zoning district.

Mr. Glenn Perian stated appeal #Z-06-15 is a use variance requested by St. Mark Lutheran Church, located at 114 E. Minges Rd., to allow an automatic changeable copy sign in an R-1B zone. Said a changeable copy sign is currently only allowed in the Office, Commercial, and Industrial zones and are aware the written report recommends approval; but after further review and discussion with staff after the report was mailed they found that based on Chapter 1296.31(j) the request does not meet all of the criteria for approval; therefore staff must recommend denial of this appeal. Stated the board may approve with conditions or deny this or any other appeal; if the board chooses to approve this request, they recommend that the sign meets all other ordinance standards, which he believes it does in this particular case. Said he wanted to remind the board that this was a use variance request, which requires 2/3 of the board's vote for a total of five members for approval and only have five members in attendance today; typically allow the applicant an option to wait for additional members to be in attendance before a vote is taken.

Mr. John Stetler, Chairperson asked the applicant if they wished to table their application until the next meeting where more zoning board members may be in attendance as they would need five yes votes for approval and there were only five members in attendance at today's meeting.

There were no public in the audience and therefore no one wishing to speak to this request.

Mr. Schuemann, Chairman of the Church Council stated yes, he feels it would be in their best interest to delay until they have a full board to vote and table until the next meeting.

*Mr. John Stetler asked if there was any further discussion, seeing none he would entertain a motion.*

**MOTION: WAS MADE BY MR. CARLYLE SIMS TO TABLE THE VARIANCE REQUEST #Z-06-15 FROM ST. MARK LUTHERAN CHURCH TO ALLOW AN ELECTRONIC CHANGEABLE COPY SIGN IN AN R-1B RESIDENTIAL ZONE UNTIL THE NEXT MEETING IN ORDER FOR MORE MEMBERS TO BE IN ATTENDANCE FOR PROPERTY LOCATED AT 114 E. MINGES ROAD; SUPPORTED BY MS. BECKY SQUIRES.**

**ALL IN FAVOR; NONE OPPOSED, MOTION CARRIED TO TABLE.**

**C. Z-07-15 (43 N. Burdge Street):**

Petition from Chris Patrick & Jennifer Kline, 43 N. Burdge St., request is for a dimensional variance to allow a 6 ft. privacy fence in a front-yard in an "R-1C Single Family Residential" district.

Mr. Glenn Perian stated appeal #Z-07-15 is a dimensional variance requested to allow a six foot fence in a front yard at 43 N. Burdge St. where only a 4 ft. tall fence is permitted and realize this is a corner lot and does not appear to be anything unique associated to this property from others in the neighborhood, other than being a corner lot. Stated for that reason and those listed in the staff report,

they are recommending denial of this appeal and also want to remind the board of the correspondence they received yesterday from a Ms. Cheryl Perkins at 26 Stiles Street, where she is not in favor of this request.

Mr. Chris Patrick and Jennifer Kline, 43 N. Burdge St., owners stated they purchased this property last year with the fence already there as you can see in the photo and they want to extend their back yard as the lot is small with the garage taking up the majority of what could be the back-yard. Stated they would like to extend the fence down the side of the house to just beyond the dining room window and down to the garage with a gate to open to get to the garage. Said they understand this is a corner lot having two front-yards and neighbors and persons are confused with the front being on Burdge St. and if they were allowed to talk to the person who complained she would agree with them and are asking this variance for privacy and protection of their three-year old child and dog to play. Ms. Kline stated her biggest concern with having a 4 ft. fence is the privacy and protection of her child and dog; said the letter of opposition offended her as it stated delinquency and that any events they have had in their yard have been kept to a minimum and they always respected everyone's privacy and have had persons steal from them when they were at home and want to have a more secure yard so persons cannot reach over their fence and steal from them and want to maintain the security of their family.

*Mr. John Stetler asked if there was any further discussion, seeing none he would entertain a motion.*

**MOTION WAS MADE BY MR. DELAND DAVIS TO APPROVE APPEAL #Z-07-15 TO ALLOW AN SIX FOOT FENCE IN A FRONT-YARD FOR PROPERTY ZONED "R1-C SINGLE FAMILY RESIDENTIAL DISTRICT" FOR PROPERTY LOCATED AT 43 BURDGE STREET; SECONDED BY MS. BECKY SQUIRES.**

**Discussion:**

Mr. Carlyle Sims stated he understands the owners wanting to upgrade their property and that one of the problems with fences is if approved it would set precedence for others and in reading the neighbors objection which noted that everyone would want to do the same. Stated he has to vote no as it sets precedence and also with the 6 ft. fence you have the privacy inside, but the police etc. cannot see from the outside for any issues if needed and would have to vote no.

Mr. John Stetler stated he is not sure if he agrees with the ordinance with it being a corner lot and he cannot change the ordinance and needs to vote on what his authority allows and does not see anything unique with this lot and would need to vote against this appeal.

**MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; NONE IN FAVOR; ALL OPPOSED, MOTION FAILED BASED ON THE FINDINGS LISTED IN STAFF REPORT.**

**D. Approval of Year 2016 ZBA Mtg. Dates:**

Ms. Becky Squires noted she will not be available for the January and February, 2016 meetings.

**MOTION: WAS MADE BY MR. CARLYLE SIMS TO APPROVE THE ZONING BOARD OF APPEALS ANNUAL MEETING DATES FOR YEAR 2016, AS PRESENTED; SUPPORTED BY MR. SAMUEL GRAY.**

Mr. Deland Davis noted his appreciation for approving next year's meeting dates early so they can get the dates on their calendars.

**ALL IN FAVOR; NONE OPPOSED, MOTION CARRIED –DATES APPROVED.**

**APPROVAL OF MINUTES:**

**MOTION: WAS MADE BY MS. BECKY SQUIRES TO APPROVE THE SEPTEMBER 8, 2015 ZONING BOARD OF APPEALS MINUTES AS PRESENTED; SUPPORTED BY MR. SAMUEL GRAY.**

**ALL IN FAVOR; NONE OPPOSED, MOTION CARRIED –MINUTES APPROVED.**

**COMMENTS BY THE PUBLIC:** None

**COMMENTS BY THE MEMBERS / STAFF:** None

**ADJOURNMENT:** Meeting was adjourned at 4:30 P.M.

Submitted by: Leona A. Parrish, Administrative Assistant, Planning Department